

ORDER NO. 3878

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Mark Acton, Vice Chairman;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Priority Mail Contracts  
Priority Mail—Non-Published Rates 1  
(MC2011-15)

Docket No. CP2011-51

ORDER GRANTING MOTION FOR LATE ACCEPTANCE

(Issued April 27, 2017)

I. INTRODUCTION

On February 3, 2011, the Commission authorized the Postal Service to enter into Priority Mail—Non-Published Rates (PMNPR) agreements based on a model contract, subject to several requirements.<sup>1</sup> On April 14, 2017, the Postal Service filed a motion

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<sup>1</sup> Docket Nos. MC2011-15 and CP2011-51, Order Approving Addition of Priority Mail—Non-Published Rates 1 to the Competitive Product List, February 3, 2011, at 8-10 (Order No. 661).

for late acceptance of its notice of filing for the PMNPR customer agreement with serial number ending in 0298.<sup>2</sup> As described herein, the Commission grants the Motion.

## II. BACKGROUND

Non-Published Rates products, including PMNPR, give the Postal Service flexibility to enter into agreements that meet set conditions without seeking prior approval from the Commission. In Order No. 3714, the Commission stated that “[i]n light of the additional flexibility afforded to the Postal Service with these types of agreements, the associated reporting requirements are a critical part of the regulatory regime.”<sup>3</sup>

Amongst these reporting requirements, the Postal Service is required to file notice of each new PMNPR agreement within a “reasonable time” of the contract’s effective date. Order No. 661 at 9. The Postal Service’s lack of compliance with this requirement has been the subject of numerous filings in this docket.<sup>4</sup> In response to Order No. 3735, the Postal Service conducted a comprehensive search of its records to identify all PMNPR agreements in effect during Calendar Years 2011 through 2016. Motion at 1; *see also* January 23, 2017 Notice at 1-2. On January 23, 2017, a Postal Service representative certified that “to the best of [his] knowledge, information, and belief,” all extant PMNPR agreements had been reported by the Sales Department to the Law Department. *See* January 23, 2017 Notice, Attachment A. On April 14, 2017,

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<sup>2</sup> Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0298, April 14, 2017 (Motion); *see also* Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0298, April 14, 2017 (April 14, 2017 Notice).

<sup>3</sup> Order Requiring Additional Information, December 29, 2016, at 4 (Order No. 3714).

<sup>4</sup> *See, e.g.*, Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0010-0247, December 28, 2016; Order No. 3714; Response of the United States Postal Service to Commission Order No. 3714, with Portions Filed Under Seal, January 6, 2017; Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0248-0250, January 6, 2017; Order Requiring Certification, January 9, 2017 (Order No. 3735); Notice of the United States Postal Service of Certification Provided in Response to Commission Order No. 3735, with Portions Under Seal, January 23, 2017 (January 23, 2017 Notice); Order No. 3760, Order Granting Motions for Late Acceptance and Requiring Quarterly Certifications, January 26, 2017.

the Postal Service informed the Commission of an additional PMNPR contract<sup>5</sup> that had been missed by the search and filed the Motion requesting that the Commission accept this late filing. Motion at 1-2.

### III. COMMISSION ANALYSIS

*Standard.* The Commission may grant motions to extend the time to make a filing “upon motion for good cause shown.” 39 C.F.R. § 3001.16. Although this rule acknowledges that requests for additional time to make a filing may occur, the Commission expects that such requests should be infrequent. Moreover, the Commission expects that what Postal Service practice has styled as motions for late acceptance, which seek an extension of the filing deadline after that deadline has passed, will be rare. In any event, any motion for an extension of time (whether filed before or after the filing deadline at issue) must demonstrate good cause.

*Analysis.* The Postal Service requests that the Commission accept the late notice on the basis of a “unique set of circumstances” relating to a filing error. Motion at 2. Specifically, the Postal Service states that the instant agreement was misclassified as a traditional Priority Mail negotiated service agreement, rather than a PMNPR agreement. *Id.* The Postal Service notes this customer has multiple contracts with the Postal Service, a fact which presumably made identification of this mistake more difficult. *Id.* Finally, the Postal Service states that new procedures established in 2017 will help prevent these types of errors in the future. *Id.*

The Commission acknowledges that filing errors can and will occur and finds that the reasons provided by the Postal Service for its failure to locate the instant agreement during its search are reasonable. The Commission therefore grants the Motion.

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<sup>5</sup> April 14, 2017 Notice.

IV. ORDERING PARAGRAPH

*It is ordered:*

The Motion for Late Acceptance of Customer Contract Filing Notice for Priority Mail—Non-Published Rates Serial Number Ending: 0298, filed April 14, 2017, is granted.

By the Commission.

Stacy L. Ruble  
Secretary